

**THE TOWN OF FOREST HEIGHTS
RESOLUTION 59- 22**

A RESOLUTION TO APPROVE A PROPOSAL AND CONTRACT WITH CHOICE CONCRETE CONSTRUCTION, INC. FOR STREET AND CURB REPLACEMENT TO IMPROVE WATER FLOW AT THE UPPER ELEVATION OF IROQUOIS WAY NEAR WOODLAND DRIVE

Introduced by: Mayor Calvin Washington

WHEREAS, the Charter, Section 33-73 (Public ways, control) states that the Town of Forest Heights (the "Town") shall have control of all public ways in the Town except such as may be under the jurisdiction of the State Roads Commission of Maryland or Prince George's County and that subject to the laws of the State of Maryland and this Charter, the Town may do whatever it deems necessary to establish, operate, and maintain in good condition the public ways of the Town; and

WHEREAS, the Town has undertaken various activities in the past designed to improve water drainage of streets, roads, alleys and by-ways in the Town, which began with the preparation of the Drainage Assessment and Inspection Report and the Pedestrian Facilities Assessment and Transition Plan prepared by Pennoni Associates Inc. on January 22, 2011 (the "Report"); and, this was an undertaking generally referred to by the Town as the "Forest Heights Permeable Green Streets Project;" and

WHEREAS, the Report provides information on the Town's storm drainage infrastructure, and Appendix F (Drainage Phase Plan) of the Report is a town-wide Drainage Inlet Map with colorized phases (phase 1-14) recommending phases of repair of the stormwater infrastructure systems; and

WHEREAS, on October 7, 2013, the Mayor and Council pursuant to Resolution 70-13 approved an engineering proposal by Pennoni Associates, Inc., for design of the reconstruction of North Huron Drive, which included an allowance to subcontract with A.D. Marble & Company ("A.D. Marble") whereby Pennoni would incorporate final drainage, SWM, E&S and landscape designs developed by A.D. Marble to prepare a comprehensive set of final design plans, and to further allow Pennoni to incorporate construction specifications, estimates and permits/approvals obtained by A.D. Marble into the final construction and bidding documents; and

WHEREAS, the North Huron Drive Sidewalks – Phase I Project (Contract No. FHRFB 2-17) included reconstruction of more than 2,300 linear feet of pervious concrete sidewalk, reconstruction/upgrades to driveway aprons, construction of ADA compliant concrete ramps, tree and fence removal and installation, and pavement markings to allow for pedestrian flow and access to the area schools; and

WHEREAS, on or about August 19, 2020 Resolution 49-20 approved and accepted a proposal and contract with Choice Concrete Construction, Inc. to perform certain street and sidewalk repairs on Seneca Drive and Terrell Avenue, which are considered Phase 2 of the Report's recommended phases; and

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WHEREAS, the Report on page 9 shows a photograph (Figure 2) of flooding on Woodland Dr. and Iroquois Way, and the area addressed by the subject proposal is located in Phase 3; and

WHEREAS, the Mayor and staff reports that for years because of the topography of Forest Heights, rainstorm events have caused water to rush severely from Blackhawk Dr. and Woodland Dr. collecting at a central point at the top of Iroquois Way, and that this stormwater, following through the natural topographic flow, continues onto Iroquois Way in route to Oxon Cove encroaching upon driveways, front yards and threatens infiltrating the homes of several residents; and

WHEREAS, the Mayor and staff further reports that one major contributing factor is that there is little to no curbing to catch and divert the water due to historic repaving of the street, layer upon layer, reducing the curb height and rendering it ineffective; therefore, in response to the problem, the administration has asked Choice Concrete to provide a proposal to address the matter and their solution described in its proposal, attached hereto as Exhibit A, involves constructing a new curb and gutter and altering the angle of the street to divert stormwater away from the affected properties; and

WHEREAS, the Charter, Section 33-66(g) (Purchases and contracts) states that the Mayor and Council by a two-thirds vote may waive the competitive bidding requirements of said section for good cause shown for sole source procurements of unique products and services provided written findings are made as to the basis of such waiver shall be placed in the journal of the Council's proceedings; and

WHEREAS, the Council finds that some of the rationale for waiving Town competitive procurement requirements are as follows: (i) the bidding process would add at least 30 days to the procurement process and the winter months and colder weather may not allow the project to start until next year; however, Choice Concrete is prepared to mobilize as soon as possible to schedule the project, (ii) the Town has a history of numerous successful repaving and stormwater related projects completed by Choice Concrete, (iii) when the Town had requested bids for similar projects, Choice Concrete has a history of submitting the lowest cost bid with quality service as recently demonstrated with the completed Cree Drive project, (iv) such a stormwater mitigation project should be considered a public safety issue or, at the least a potential "infrastructure hazard" that could expose the Town to legal liability since street maintenance is considered under Maryland law to be a proprietary interest without the typical governmental immunities, (v) the Town is currently in the process of completing a Draft Capital Improvement Plan (CIP) which will prioritize Town Capital and Infrastructure projects and identify funding sources tied to the Budget, and funding has been identified for this project; and

WHEREAS, the Council further finds that time is of the essence and only one named supplier can meet needs within the expedited timeframe; and

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WHEREAS, the Staff recommends that in order to complete the project that the milling and curb replacement be provided by Choice Concrete Construction, Inc., a business in good standing with the State and, as stated, having performed numerous contracts with the Town; and

WHEREAS, the Town wishes to enter into an agreement with Choice Concrete Construction, Inc. to perform the above-described repairs in the amount of \$53,189.00.

NOW, THEREFORE BE IT RESOLVED that the Town Council hereby accepts the aforementioned Proposal entitled "Proposal No. 22-602: Iroquois Way – Street and Curb replacement to help with water flow," dated of Aug. 24, 2022, and further approves and authorizes the Town to proceed with the said contract quoted at \$53,189.00 (plus a 10% contingency amount not exceeding a total project amount of \$58,507.90) with certain terms and conditions enumerated therein, prepared by Choice Concrete Construction, Inc., a Maryland company that is in good standing with the State, which is attached hereto and incorporated by reference herein as Exhibit A.

AND, BE IT FURTHER RESOLVED that the Town Council hereby authorizes the finalized written contract with Choice Concrete Construction, Inc. to be paid pursuant to FY23 Budget Line Item(s): 8200 (*American Rescue Plan Act Expenditures*) with any proofs of insurance and indemnifications deemed necessary by the Town Administrator to protect the Town and carry out the performance of the project described herein.

AND, BE IT FURTHER RESOLVED, that prior to the Mayor signing the approved proposal or contract and notwithstanding anything in said contract to the contrary, the authorized representative of said company or firm shall provide proof of insurance indemnifying the Town, to the satisfaction of the Town Administrator, and that the Contractor shall agree by signing a release and waiver that it will provide and maintain at all times during the term of this agreement, or any other contract it has with the Town, such insurance coverage (Commercial General Liability, Business Automobile Liability, and Workers' Compensation) to adequately protect the Town or as otherwise required by law and that the Contractor shall cover any claim that may arise while engaged in work under any agreement with the Town.

AND, BE IT FURTHER RESOLVED that the Town Council by a two-thirds vote hereby waives the competitive bidding requirements of Section 33-66 of the Town Charter for good cause shown for sole source procurements of unique products and services.

AND, BE IT FURTHER RESOLVED that the Town Administrator and Town Treasurer shall ensure that the Annual Budget Ordinance, as amended, and any duly authorized amendatory budget resolutions, and the detailed line-item budget/quarterly financial reports are properly introduced, enumerated and amended to accommodate, validate and reflect the intent of this Resolution.

AND, BE IT FURTHER RESOLVED that the Mayor, on behalf of the Town, is hereby authorized to enter into the subject Proposal/Contract and execute any other necessary

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documents needed to carry out the intent of this Resolution prior to the commencement of any work; and

AND, BE IT FURTHER RESOLVED, that the Mayor shall ensure that the Acting or Interim Public Works Supervisor obtains and reviews for sufficiency any necessary traffic control or barricading plans in order to protect the travelling public during the course of construction described in the above approved proposal/contract;

AND BE IT FURTHER RESOLVED that this Resolution shall take effect immediately upon its passage.

PASSED this 8 day of October 2022.

APPROVED: By Resolution of the Town Council of The Town of Forest Heights, Maryland

ROLL CALL VOTE

YEA/NAY/ABSTAIN/ABSENT

LILLY

KENNEDY II

NOBLE

BARNES

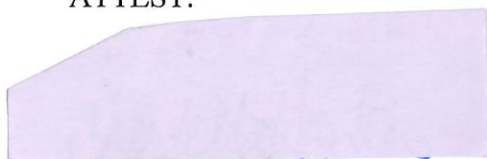
HINES

WASHINGTON

ATKINSON

Yea
Yea
Yea
Yea
Yea
Yea
Yea

ATTEST:



Sherletta Hawkins, Town Clerk

THE TOWN OF FOREST HEIGHTS,
MARYLAND

By:

Calvin Washington, Mayor

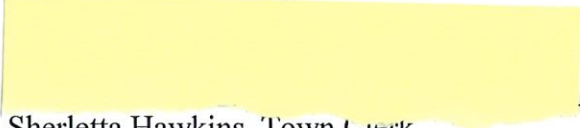
By:

Troy Lilly, Council President

CERTIFICATION

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I, hereby certify, as the duly appointed Town Clerk of the Town of Forest Heights, Maryland, that on the 9 day of October 2022 with 6 Aye votes and 0 Nay (2/3rds supermajority) votes the aforesaid Resolution 59-22 passed.


Sherletta Hawkins, Town Clerk

[Exhibit A - Choice Concrete Construction, Inc. *Proposal/Contract (dated Aug. 24, 2022)*]